

## HOUSE BILL NO. 754

INTRODUCED BY R. KOOPMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT A PERSON WHO INTENDS TO FILE AS A CANDIDATE FOR A STATE OR DISTRICT OFFICE TO BE VOTED FOR IN MORE THAN ONE COUNTY, THE LEGISLATURE, OR JUDGE OF THE DISTRICT COURT SHALL, BEFORE FILING AS A CANDIDATE FOR OFFICE, TAKE A TEST TO ASCERTAIN AND EXHIBIT THE CANDIDATE'S WORKING KNOWLEDGE OF THE MONTANA CONSTITUTION AND THE UNITED STATES CONSTITUTION; PROVIDING FOR THE ADMINISTRATION OF THE TEST; ESTABLISHING THE DUTIES AND AUTHORITY OF THE SECRETARY OF STATE AND OF COUNTY ELECTION ADMINISTRATORS IN REGARD TO ADMINISTERING THE TEST; PROVIDING FOR IMPLEMENTATION; AMENDING SECTIONS 13-10-201 AND 13-14-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Constitutional knowledge -- test.** (1) (a) Before filing as a candidate for office, each person who intends to file as a candidate for a state or district office to be voted for in more than one county, the legislature, or judge of the district court must have taken a test to ascertain and exhibit the person's working knowledge of the Montana constitution and the United States constitution. The test must be composed of 25 multiple-choice questions on the Montana constitution and 25 multiple choice questions on the United States constitution. There must be four versions of the test, each version containing the same questions, but listed in different order. The test may be taken only at the office of the secretary of state or the county election administrator during regular office hours, and the secretary of state or the county election administrator, as applicable, shall administer, proctor, and score each test taken. The secretary of state and the county election administrator shall make test scores readily available to the public.

(b) Regardless of the results of a person's test, the person is, subject to 13-10-201, entitled to file for the office.

(c) A person, including a candidate, may retake the test only once within 6 months following the date on which the person last took the test and, except as provided in subsection (1)(d), may take the test a total of three times during any 2-year period.

(d) Notwithstanding subsection (1)(c), a person who intends to file as a candidate for an office included in subsection (1) is required to take the test if it has been rewritten since the person last took the test.

(2) The test may be rewritten once every 10 years by a team of three constitutional scholars:

(a) one of whom is to be designated by the political party whose candidates for the legislature received the most aggregate votes statewide at the most recent general election;

(b) one of whom is to be designated by the political party whose candidates for the legislature received the second most aggregate votes statewide at the most recent general election; and

(c) one of whom is to be designated by a committee of three individuals, one chosen by each of the three political parties whose respective candidates for the legislature received the third, fourth, and fifth most aggregate votes statewide at the most recent general election.

(3) The constitutional scholars and the individuals who serve on the committee provided for in subsection (2)(c) are not entitled to any compensation from the state, but are entitled to be reimbursed as provided for in 2-18-501 through 2-18-503. Reimbursement must be provided through the office of the secretary of state.

(4) If a vacancy occurs among the constitutional scholars or the committee provided for in subsection (2)(c), a replacement to fill the vacancy must be designated in the same manner as the person whose absence caused the vacancy was designated.

**NEW SECTION.** **Section 2. Administration.** (1) The secretary of state shall adopt procedures to administer the test described in [section 1(1)].

(2) The secretary of state shall set a fee, sufficient to pay for the costs of the test. Except as provided in subsection (3), the fee is payable by each individual who takes the test. Subject to subsection (3), the secretary of state and the county election administrator shall collect the fee from each individual who takes the test. The secretary of state and the county election administrator shall forward all test fees collected to the state treasurer for deposit in an account in the state treasury that may be used only to administer [section 1] and this section.

(3) If an individual is unable to pay the test fee, the filing officer shall accept a verified statement that the candidate is unable to pay the test fee.

**Section 3.** Section 13-10-201, MCA, is amended to read:

1           **"13-10-201. Declaration for nomination.** (1) Each candidate in the primary election, except  
2 nonpartisan candidates filing under the provisions of chapter 14, shall file a declaration for nomination with the  
3 secretary of state or election administrator. A candidate may not file for more than one office. Each candidate  
4 for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

5           (2) A declaration for nomination must be filed in the office of:

6           (a) the secretary of state for placement of a name on the ballot for the presidential preference primary,  
7 a congressional office, a state or district office to be voted for in more than one county, a member of the  
8 legislature, or a judge of the district court;

9           (b) the election administrator for a county, municipal, precinct, or district office (other than a member  
10 of the legislature or judge of the district court) to be voted for in only one county.

11           (3) (a) Each candidate shall sign the declaration and send with it the required filing fee or, in the case  
12 of an indigent candidate, send with it the documents required by 13-10-203, and each candidate for a state or  
13 district office to be voted for in more than one county, the legislature, or judge of the district court shall also show  
14 proof that the candidate has complied with the provisions of [section 1(1)].

15           (b) The declaration for nomination must be acknowledged by an officer empowered to acknowledge  
16 signatures or by the officer of the office at which the filing is made.

17           (4) The declaration of a person who intends to be a candidate for an office subject to [section 1] is not  
18 complete and the secretary of state may not accept or file the declaration until the person shows proof that the  
19 person has complied with the provisions of [section 1]. The declaration, when filed, is conclusive evidence that  
20 the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file  
21 a declaration for more than one party's nomination.

22           (5) (a) The declaration for nomination must be in the form and contain the information prescribed by  
23 the secretary of state.

24           (b) A person seeking nomination to the legislature shall provide the secretary of state with a street  
25 address, legal description, or road designation to indicate the person's place of residence. If a candidate for the  
26 legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state  
27 on a form prescribed by the secretary of state.

28           (c) The secretary of state and election administrator shall furnish declaration for nomination forms to  
29 individuals requesting them.

30           (6) Declarations for nomination must be filed no sooner than 135 days before the election in which the

office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

(7) A declaration for nomination form may be sent by facsimile transmission, if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state."

**Section 4.** Section 13-14-112, MCA, is amended to read:

**"13-14-112. Declarations for nomination -- fee.** (1) Nonpartisan candidates shall file declarations for nomination as required by the primary election laws in a form prescribed by the secretary of state except as provided in 13-14-113. When filing a declaration for nomination, a person who intends to be a candidate for an office subject to the provisions of [section 1] shall show proof that the person has complied with the provisions of [section 1(1)]. A candidate may not file for more than one office.

(2) Declarations may not indicate political affiliation. The candidate may not state in the declaration any principles or measures that the candidate advocates or any slogans.

(3) Each individual filing a declaration shall pay the fee prescribed by law for the position that the individual seeks.

(4) Declarations must be filed in the office of the secretary of state or the appropriate election administrator as provided in 13-10-201. Time of filing must be the same as provided in 13-10-201."

**NEW SECTION. Section 5. Implementation.** (1) Because the test required in [section 1] to ascertain and exhibit the candidate's working knowledge of the Montana constitution and the United States constitution does not exist and because there is limited time for the constitutional scholars described in [section 1] to write the test:

(a) the constitutional scholars first designated under [section 1] must be designated by [6 weeks after the effective date of this act]; and

(b) on or before October 1, 2005, the three constitutional scholars shall provide to the secretary of state the test described in [section 1(1)].

(2) As soon as practicable after [this act] becomes effective, the secretary of state shall set the test fee for and adopt procedures to administer the test described in [section 1(1)].

**NEW SECTION. Section 6. Codification instruction.** [Sections 1 and 2] are intended to be codified

1 as an integral part of Title 13, chapter 10, part 2, and the provisions of Title 13, chapter 10, part 2, apply to  
2 [sections 1 and 2].

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4 NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

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